

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **EDCV 23-1961-KK-AJR<sub>x</sub>**

Date: November 29, 2023

Title: ***Keith Birnbaum et al v. LoanCare, LLC et al***Present: The Honorable **KENLY KIYA KATO, UNITED STATES MAGISTRATE JUDGE**

Noe Ponce

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

**Proceedings: (In Chambers) Order to Show Cause Why Action Should Not Be Dismissed for Failure to Prosecute**

Absent a showing of good cause, an action must be dismissed without prejudice if the summons and complaint are not served on a defendant within 90 days after the complaint is filed. See FED. R. CIV. P. 4(m). Generally, a defendant must answer the complaint within 21 days after service, or 60 days if the defendant is the United States. “[A]ny required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.” FED. R. CIV. P. 15(a)(3).

In the present case, it appears that one or more of these time periods has not been met. Accordingly, the Court, on its own motion, orders plaintiff(s) to show cause in writing on or before **December 6, 2023** why this action should not be dismissed for lack of prosecution. As an alternative to a written response by plaintiff(s), the Court will consider the filing of one of the following, as an appropriate response to this Order to Show Cause, on or before the above date, as evidence that the matter is being prosecuted diligently:

- ☐ Proof of Service of summons and complaint
- ☒ Answer by the defendant or an application for entry of default pursuant to Federal Rule of Civil Procedure 55(a)
- ☐ Motion for entry of default judgment set for hearing in accordance with the Local Rules and the Court’s Standing Order

It is plaintiff's responsibility to respond promptly to all Orders and to prosecute the action diligently, including filing proofs of service and stipulations extending time to respond. If necessary, plaintiff(s) must also pursue Rule 55 remedies promptly upon the default of any defendant. All stipulations affecting the progress of the case must be approved by this Court. See Local Rules 7-1 and 7-2.

No oral argument of this matter will be heard unless ordered by the Court. The Order will stand submitted upon the filing of a responsive pleading or motion on or before the date upon which a response by plaintiff(s) is due.

**Plaintiff is expressly warned that failure to timely file a response to this Order will result in this action being dismissed without prejudice as to Defendant for failure to prosecute and comply with court orders. See FED. R. CIV. P. 41(b).**

**IT IS SO ORDERED.**